that the aforesaid Rules were outdated and that the same had been amended so that both the Notice of Appeal and the docketing of the case must be completed within the same ninety (90) day period following the entry of the Judgment in the Court of Appeals.

7. That the aforesaid mistake was entirely your deponent's fault and was occasioned by his failure to properly examine into the applicable Rules of the Supreme Court.

8. That after your deponent's initial examination of the Rules he diaried this matter on his personal calendar for preparation of the Jurisdictional Statement during the week of October 26th, on the assumption that he had until December 2, 1970, for filing of the same.

9. That on October 24th your deponent discovered his error and discovered that it was also beyond the allowable time for an application to extend the period for docketing pursuant to Rule 13.1 and Rule 34.2 of the Supreme Court Rules.

10. That your deponent had several conversations during the period from July 2, 1970, to October 24, 1970, with Mr. Ronald Crowley, Esq., the attorney for the Appellee herein, and it was apparently Mr. Crowley's understanding that the Appellant had a one hundred and fifty (150) day period within which to docket this matter.

11. That your deponent's inattention to the docketing requirements was somewhat aggravated by the fact that his attention on this file was concentrated on a Motion for a New Hearing and Reconsideration of the dispositional Order which your deponent brought in Family Court, pursuant to Section 761 of the New York Family Court Act.

12. That said Motion required the execution of Motion papers and the presentation of oral argument and that to date this Motion remains undecided by the Family Court.

13. That your deponent takes sole responsibility for

the failure to docket the case within the period prescribed by the applicable Rules but respectfully requests that this Court waive said Rule so as to consider on the merits the serious constitutional questions that are presented on this appeal.

14. That the infant Appellant in no way aided or abetted your deponent's error and that the rights which are at stake and to be resolved by this Court are serious and substantial in nature.

15. That to allow the docketing of this case at this time would in no way work to the detriment of the interests of the County of Onondaga and is, in fact, requested by said County of Onondaga.

Dennis G. O'Hara
DENNIS G. O'HARA

(Sworn to October 26, 1970).